



Date: September 30, 2020

To,

The Hon'ble Chairperson and

Other Esteemed members of the National Human Rights Commission (NHRC),

New Delhi

cr.nhrc@nic.in,

nhrc.india@nic.in

From:

All India Union of Forest Working People (AIUFWP)

And

Citizens for Justice & Peace, Mumbai (CJP)

Sub: In the matter of Bihar Police firing at the Adivasi and forest dwelling communities during a protest in Adhaura Block of Kaimur District on September 10 and 11, 2020 to demand legal rights over water, forest and land.

Hon'ble Sir,

We are writing to you as we are concerned with the injustices on the Adivasis and Forest Dwellers at Kaimur, Bihar. The Bihar Police fired at a democratically organised protest sit-in in Adhaura block of Kaimur District. Activists of Kaimur Mukti Morcha had staged a sit-in demonstration on September 10 and 11, 2020, to demand legal rights over water, forest and land. But the police administration and forest department did not listen to their demands and the activists locked the gates and forest department in a symbolic manner, to make their voices heard. Instead of engaging in a dialogue with the peaceful protestors, the police opened fire and lathi-charged the protesters. Worse half a dozen more Adivasi activists belonging to the Kaimur Mukti Morcha have been wrongfully arrested. Three people from Sarai Nar, Barkatta and Chafna were injured in the incident, while more than half a dozen people of Kaimur Mukti Morcha were arrested. The police also broke locks of Kaimur Mukti Morcha office and conducted raids there.



About the movement

This struggle has been going on for decades when the “Kaimur Mukti Morcha” (Translated as: “Kaimur Freedom Movement”) was launched with the help of Dr. Vinayan who was also the founder member of the All India Union of Forest Working People (formerly known as National Forum of Forest People and Forest Workers). The CJP, working closely with the AIUFWP appreciates, as has the state government in the past, the contribution of this movement which has been praiseworthy and responsible for eliminating Maoist presence in the district. Before this, the Kaimur area was notorious for its Maoist presence in the past, it became free of Maoists after the organisation of Kaimur Mukti Morcha by Dr. Vinayan who advocated strictly democratic means such as peaceful dialogue.

Forest Department atrocities since the Covid 19 Lockdown

Forest department officials have, since March 2020, when the lockdown was in force, been allegedly employing means like encroaching upon agricultural lands of these Adivasis with the intention of evicting them from villages of Adhaura block such as Gullu, Guiya, Dighar, Bahabar, Pipra, Sainagar, Sodha, Bahera, Dumrava, Sarainar. In Sarainar they reportedly destroyed all 50 houses of the villagers in a bid to evict them. In Gullu, the government officials including forest officials have been allegedly pressuring the villagers by digging pits on their farm lands under the grab of carrying out afforestation.

They have been citing “afforestation schemes’ as the reason to displace these forest dwelling Adivasis from these lands for several months. Kaimur Mukti Morcha has been agitating against these unwarranted acts of the public officials that make earning a livelihood a struggle for these Adivasis. The authorities have also allegedly threatened members of Kaimur Mukti Morcha such as the Secretary Raja Lal Kharwar and Rajinder Oraon and few others, by issuing notices to them that they would be arrested by the CRPF. Some CRPF personnel even landed at a village meeting in Bahida village to allegedly create an atmosphere of terror in the villagers’ minds.

Precursor to the incident

In July 2020, Kaimur Mukti Morcha had gathered around the office of the Block Development Officer to get their demands heard. This gathering saw thousands of villagers from various villages in Adhaura block expressing their anguish over the persistent nuisance caused by forest officials obstructing their daily lives and means of livelihood making life difficult for them during the lockdown.

What were the Adivasis peacefully protesting for?

On September 10 and 11, 2020, the day of the peaceful protest, the members of Kaimur Mukti Morcha were making the following demands:

- the administrative reorganisation of Kaimur Pahar
- declaring Kaimur as a Scheduled area as per the Fifth Schedule of the Constitution
- implementing the Chhota Nagpur Tenancy Act
- abolishing the Kaimur Pahar Forest Wildlife Sanctuary and Tiger Reserve
- implementation of the Forest Rights Act 2006, along with Panchayats (Extension to Scheduled Areas) Act, 1996.

These were peaceful, democratic protests, protected by the Fundamental Rights enshrined in the Indian Constitution. The Right to Protest is embodied **Article 19(1)(a)** guarantees the **freedom** of speech and expression; **Article 19(1)(b)** assures citizens the **right** to assemble peaceably and without arms. Apart from Schedules V, VI and XI that statutorily mandate the protection of areas where Scheduled Tribes live from intrusion by authorities, the *Forest Rights Act, 2006 and Rules thereunder include the right of land to forest dwelling Scheduled Tribes and Other Forest Dwellers, for the purpose of filing petitions, making claims etc, to organise public hearings in the local bazar.*

An Informative Guide issued by the Ministry of Tribal Affairs (MOTA) outlines these powers.

This guide has been annexed to this memorandum as **Annexure A** herewith.

In an order issued in February 2019, the Apex Court had specifically issued directions to the Chief Secretaries of various States to ensure that in all cases where land ownership claims have been rejected under the Forest Act 2006, eviction is to be carried out. However, following protests across the country and a legal battle, the court had extended its stay on the eviction of lakhs of people from the scheduled tribes and other traditional forest dwellers on February 28, 2019 in *Wildlife First v Union of India* I.A. No. 35782/2019. The court issued directions to the States to submit whether due process had been followed in rejecting such claims.

The order dated February 28 2019 of the Supreme Court of India is annexed as **Annexure B** herewith.

In this matter a letter was also written to Shri. Nitish Kumar, The Chief Minister of Bihar to take cognizance of the atrocities meted out on the Adivasi community by the AIUFWP and CJP. The letter



mentions that following the Supreme Court order putting a stay on its earlier order, the Adivasis in Kaimur have met with harassment, targeting and forced eviction by the Forest Department. Several affected villagers claim that the Supreme Court ordered stay on the eviction has gone unnoticed by the department which continues its eviction process unabated. In order to reach a settlement, on September 10 and 11, more than thousand Adivasis staged a sit-down protest peacefully but no Forest Department authority official was willing to listen to their grievances. When they tried to surround the Forest Department office to create more pressure, the protesters were fired and lathi charged at and three people from Sarai Nar, Barkatta and Chafna were injured in the incident, while more than half a dozen people of Kaimur Mukti Morcha were arrested. The police also broke locks of Doctor Vinayan Ashram Taimur Mukti Office and illegally picked up the motorcycles.

*A copy of this letter has been annexed as **Annexure C** herewith.*

A letter dated September 13, 2020 was also addressed to Shri Manoj Jha, member of Rajya Sabha in India Parliament in relation to the firing at Adivasis at the protest in Kaimur, Bihar on September 11, 2020 by AIUFWP. The letter mentions the aforementioned incidents and also that activists of Kaimur Mukti Morcha had circulated ten thousand pamphlets informing the villagers, Gram Sabha, Police and Forest Department about the protests of September 10 and 11, 2020 one month prior to fight for their rights. Another letter dated September 15, 2020 was addressed to the Director General of Police, Patna Bihar in relation to the firing at Kaimur Activists and forest dwellers by the AIUFWP on the same issues. Both letters attached the copy of the pamphlet that was circulated to inform people about the protests. The Pamphlets call for unity against the fight for their rights to water, forest and land.

*A copy of these letter has been annexed as **Annexure D1 and D2** herewith.*

The Police filed an FIR against seven Kaimur Mukti Morcha Activists on September 11, 2020 around 2:15 PM. The FIR has been lodged under sections 147 (Punishment for Rioting), 148 (rioting, armed with deadly weapon), 145 (Joining or continuing in unlawful assembly, knowing it has been commanded to disperse), 323 (Punishment for voluntarily causing hurt), 307 (Attempt to murder), 353 (Assault or criminal force to deter public servant from discharge of his duty), 332 (Voluntarily causing hurt to deter public servant from his duty), 333 (Voluntarily causing grievous hurt to deter public servant from his duty), 337 (Causing hurt by act endangering life or personal safety of others) 338 (Causing grievous hurt by act endangering life or personal safety of others), 188 (Disobedience to order duly promulgated by public servant), 427 (Mischief causing damage to the amount of fifty rupees), 342 (Punishment for wrongful confinement) of the Indian Penal Code and section 27

(Punishment for possessing arms, etc., with intent to use them for unlawful purposes) of the Arms Act.

*A copy of the FIR's has been annexed as **Annexure E** herewith.*

That the Director of the Kaimur Mukti Morcha addressed a letter to the Circle Officer, Kaimur, requesting permission to peacefully protest for their demands of administrative organization of Kaimur Pahar, declaring Kaimur as a Scheduled Area under Schedule 5 of the Constitution of India, implementing the Chota Nagpur Tenancy Act, abolishing the Kaimur Pahar Forest Wildlife Sanctuary and Tiger Reserve and implementation of the Forest Rights Act 2006, along with Panchayats (Extension to Scheduled Areas) Act, 1996. The letter also stated that all protestors will take into account the current situation of the Covid 19 Pandemic and that they will adhere to the norms of physical distancing and wearing masks. There are images from the protest site that informs us about the peaceful environment maintained by the tribal community which was trying to come to an agreement with the forest officials against illegal eviction.

*A copy of the letter has been annexed as **Annexure F** herewith.*

*Images of the protest site have been annexed as **Annexure G** herewith.*

Legal sanctions favouring the Adivasi community

The Forest Rights Act recognizes community forest rights as well as individual forest rights and allows forest dwellers to file claims to their forest rights under section 6 (1) of the Act. Section 6 of the Act contains provisions related to such claims and the authorities having the powers to vest these rights on to the forest dwellers, which includes Scheduled Tribes as well as traditional forest dwellers.

Section 3 (1) (a) of the Act recognizes the right to hold and live in the forest under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers.

Further, the Supreme Court has, in February 2019, stayed the eviction of forest dwellers whose claims have been rejected for want of due process. These unwarranted acts of forceful evictions of such vulnerable sections of society are condemnable and also amount to infringement of the basic fundamental right of right to life under Article 21 of the Indian Constitution. Despite legal provisions and court decisions being in favour of the Adivasis or forest dwellers, public officials have been defying



them and are acting in complete disregard of even humanitarian concerns when the country is reeling under the Covid-19 pandemic.

The Forest Rights Act, 2006 is applicable to the forest dwellers all across the country. Despite of the law being in force for the past 14 years, individual as well as community claims of forest dwellers are not yet being recognized. This has given further impetus to the powerful nexus between the local mafia, police and forest department, who have for centuries exploited forest dwellers. This state of affairs has allowed a historical injustice to be perpetuated despite the laudable and emancipatory objectives behind the law. Further, despite of the country facing such a crucial health crisis, the atrocities of the forest officials towards the tribal community has not diminished by any measure and is in fact continuing in full force. The refusal of forest authorities to recognize the rights of forest dwellers in complete disregard of not just the mandate of the law but also orders of the courts of law and invoking of false cases against these forest dwellers is a clear display of their contempt towards these tribes.

UN Special Rapporteur, Leilani Farha while speaking against eviction of forest dwellers from forests observed, "For generations, India's tribal peoples have lived in harmony with the country's wildlife, protecting and managing vital natural resources. It is because of their sustainable stewardship that India still has forests worth conserving. To truly protect wildlife, recognising the rights of forest guardians would be a far more effective strategy than rendering them homeless."

For more than 6 months tribal societies have been raising their forest rights demands but there seems to be no hope in sight. The Forest Rights Act has been in existence since 2006 but in Bihar, it has not been implemented on ground. Instead of listening and solving the problems of the tribal through dialogue, the police have responded with batons, firing and arrests.

*A copy of the CJP Statement condemning this act of violence has been annexed as **Annexure H** herewith.*

*A copy of the Press Release by AIUFWP and newspaper article condemning the Police firing on poor Tribals on demand for rights has been annexed as **Annexure I** herewith.*

Names, address and designation of public servants against whom complaint is being made of:

1. Adhaura Police Station
2. Dilnawaz Ahmed, Superintendent of Police, Kaimur

Nirant, Juhu Tara Road, Juhu, Santacruz (West), Mumbai – 400049.
Website: <https://cjp.org.in/> Email: info@cjp.org.in Fax: 022-26608252



Prayers before the Commission

1. We, at the All India Union of Forest Working Peoples (AIUFWP) and Citizens of Justice and Peace (CJP) earnestly urge this Hon'ble Commission to take suo motu cognisance of this case under the Protection of Human Rights Act (PHRA) and we also urge the NHRC to constitute a special team to inquire and investigate the matter.
2. We also demand that an immediate notice to the District Magistrate and Superintendent of Police for their inability to protect the rights and life of the Adivasis and Forest dwelling communities.
3. Further, an FIR must be filed on erring officials for unleashing violence and hampering the implementation of the Forest Rights Act under section 3 (i)(g) of the SC/ST Act. The esteemed Commission needs to consider directions to this effect.
4. As organisations committed to reclaiming the rights over land of the Adivasi and Forest Dwelling communities and a civil rights group committed to the rule of law and equality before the law as enshrined in the Indian Constitution, we urge this Hon'ble Commission to, in exercise of its powers and functions: "(a) inquire, suo motu or on a petition presented to it by a victim or any person on his behalf [or on a direction or order of any court], into complaint of (i) violation of human rights or abetment thereof; or (ii) negligence in the prevention of such violation, by a public servant".
5. Any other relief that this Hon'ble Commission may deem to be necessary and prudent so as to ensure that such brutal police action is not repeated in the state or any other part of the country.

Yours sincerely,

Roma Malik

All India Union of

Forest Working People (AIUFWP)

Teesta Setalvad

Citizens for Justice and Peace



Annexures

- A Informative Guide on the Rules under FRA issued by the Ministry of Tribal Affairs (MOTA)
- B Order dated February 28, 2019 of the Supreme Court of India
- C Letter written to Shri Nitish Kumar, Chief Minister of Bihar
- D1 Letter written to Shri. Manoj Jha
- D2 Letter written to DGP, Patna, Bihar
- E Copy of the FIR's filed against seven Kaimur Mukti Morcha activists
- F Letter written to Circle Officer, Kaimur
- G Images demonstrating peaceful sit in protest
- H CJP statement condemning the act of violence against Adivasi community
- I AIUFWP Press release and newspaper article condemning police firing on Tribals for demand of rights.